



## DEPARTMENT OF HOMELAND SECURITY

### 8 CFR Part 214

#### **Readability Changes for Special Requirements for Admission, Extension, and Maintenance of Nonimmigrant Status**

**AGENCY:** DHS, Office of the Secretary.

**ACTION:** Final rule.

**SUMMARY:** The Department of Homeland Security (DHS) is adding technical reading aids to a section of the Code of Federal Regulations to make that section easier to navigate.

**DATES:** This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** For information about this document, contact Danny Fischler, Office of the General Counsel, U.S. Department of Homeland Security, (202) 282-9822.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Discussion of the Rule**

The Department of Homeland Security (DHS) is revising its regulations at 8 CFR 214.2, *Special requirements for admission, extension, and maintenance of status*. The revision is intended to make it easier to locate information within § 214.2, which is lengthy and contains a significant number of paragraph levels. Specifically, DHS is adding five tables to § 214.2, each of which will function as a table of contents or reading aid.

DHS is making two sets of changes. First, DHS is adding a table of contents for § 214.2 as a whole. This table of contents corresponds to the paragraph headings in the first paragraph level of § 214.2, i.e., paragraphs (a), (b), (c), and so on.

Second, DHS is inserting additional tables of contents corresponding to the second paragraph level within the following paragraphs of § 214.2:

- (f) Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs.
- (h) Temporary employees.<sup>1</sup>
- (m) Students in established vocational or other recognized nonacademic institutions, other than in language training programs.
- (w) CNMI-Only Transitional Worker (CW-1).

DHS selected these paragraphs because of their relative length and complexity. By adding a table of contents to the second paragraph level within paragraphs (f), (h), (m), and (w), DHS aims to make § 214.2 easier to navigate for both DHS and the public.

Within each table of contents, each entry corresponds to a paragraph heading within § 214.2. A reader of an electronic version of § 214.2, such as the version available at [www.ecfr.gov/](http://www.ecfr.gov/), can use the table of contents entry and the “Find” feature of a web browser or other application to more easily find the corresponding paragraph heading within § 214.2. These changes do not alter the operative regulatory text in any way and are intended to serve as a supplemental aid to make it easier to find information within the regulation.

## **II. Regulatory History**

DHS did not publish a notice of proposed rulemaking for this regulation. Under 5 U.S.C. 553(b)(B), an agency may waive the notice and comment requirements if it finds, for good cause, that notice and comment is impracticable, unnecessary, or contrary to the public interest. DHS finds that notice and comment are unnecessary under 5 U.S.C. 553(b)(B) because the changes herein are technical in nature and will have no substantive effect on the public. DHS also finds that the delayed effective date provision of 5 U.S.C. 553 does not apply because this rule is not “substantive,” and that even if the provision did apply, good cause exists under 5 U.S.C. 553(d)(3) for making this final rule effective immediately upon publication.

---

<sup>1</sup> DHS is also revising certain paragraph headings within paragraph (h) to make each paragraph heading unique within that paragraph.

### **III. Regulatory Analysis**

DHS considered numerous statutes and executive orders related to rulemaking when developing this rule. Below are summarized analyses based on these statutes and executive orders.

#### *A. Regulatory Planning and Review*

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. This rule involves non-substantive technical changes; it will not impose any additional costs on the public. The benefit of the change is that 8 CFR 214.2 will now be easier to navigate.

#### *B. Regulatory Flexibility Act*

This rule is not preceded by a notice of proposed rulemaking. Therefore, it is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612).

#### *C. Collection of Information*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

#### *D. National Environmental Policy Act*

DHS reviews proposed actions to determine whether the National Environmental Policy Act (NEPA) applies to them and if so what degree of analysis is required. DHS Directive 023-01 Rev. 01 (Directive) and Instruction Manual 023-01-001-01 Rev. 01 (Instruction Manual) establish the procedures that DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500 through 1508.

The CEQ regulations allow federal agencies to establish, with CEQ review and concurrence, categories of actions (“categorical exclusions”) which experience has shown do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). 40 CFR 1507.3(b)(2)(ii), 1508.4. For an action to be categorically excluded, it must satisfy each of the following three conditions: (1) the entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect. Instruction Manual section V.B(2)(a)-(c).

This rule is a technical amendment that updates the structure of 8 CFR 214.2 to make it more accessible. Specifically, the amendment inserts a main table of contents, as well as four tables of contents for paragraphs (f), (h), (m), and (w). Therefore, it clearly fits within categorical exclusion A3(a) “Promulgation of rules ... of a strictly administrative or procedural nature.” Instruction Manual, Appendix A, Table 1. Furthermore, the rule is not part of a larger action and presents no extraordinary circumstances creating the potential for significant environmental impacts. Therefore, the amendment is categorically excluded from further NEPA review.

#### **List of Subjects in 8 CFR Part 214**

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

For the reasons stated in the preamble, DHS amends 8 CFR part 214 as follows:

**PART 214—NONIMMIGRANT CLASSES**

1. The authority citation for part 214 is revised to read as follows:

**Authority:** 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301-1305, 1357, and 1372; sec. 643, Pub. L. 104-208, 110 Stat. 3009-708; Pub. L. 106-386, 114 Stat. 1477-1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115-218, 132 Stat. 1547 (48 U.S.C. 1806).

2. Amend § 214.2 as follows:

- a. Immediately after the section heading, add table 1 to § 214.2;
- b. Immediately after the paragraph heading of paragraph (f), add table 2 to paragraph (f);
- c. Immediately after the paragraph heading of paragraph (h), add table 3 to paragraph (h);
- d. Revise paragraph headings of paragraphs (h)(21), (22), (26), (27), and (28), respectively;
- e. Immediately after the paragraph heading of paragraph (m), add table 4 to paragraph (m); and
- f. Immediately after the paragraph heading of paragraph (w), add table 5 to paragraph (w).

The revisions and additions read as follows:

**§ 214.2 Special requirements for admission, extension, and maintenance of status.**

Table 1 to § 214.2 – Section Contents	
(a)	Foreign government officials
(b)	Visitors

(c)	Transits
(d)	Crewmen
(e)	Treaty traders and investors
(f)	Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs
(g)	Representatives to international organizations
(h)	Temporary employees
(i)	Representatives of information media
(j)	Exchange aliens
(k)	Spouses, Fiancées, and Fiancés of United States Citizens
(l)	Intracompany transferees
(m)	Students in established vocational or other recognized nonacademic institutions, other than in language training programs
(n)	Certain parents and children of section 101(a)(27)(I) special immigrants
(o)	Aliens of extraordinary ability or achievement
(p)	Artists, athletes, and entertainers
(q)	Cultural visitors
(r)	Religious workers
(s)	NATO nonimmigrant aliens
(t)	Alien witnesses and informants
(u)	[Reserved]
(v)	Certain spouses and children of LPRs
(w)	CNMI-Only Transitional Worker (CW-1)

\* \* \* \* \*

*(f) Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs.*

<b>Table 2 to Paragraph (f) – Paragraph Contents</b>	
(1)	Admission of student
(2)	I-20 ID
(3)	Admission of the spouse and minor children of an F-1 student
(4)	Temporary absence
(5)	Duration of status
(6)	Full course of study
(7)	Extension of stay
(8)	School transfer
(9)	Employment
(10)	Practical training
(11)	OPT application and approval process
(12)	Reporting while on optional practical training
(13)	Temporary absence from the United States of F-1 student granted employment authorization
(14)	Effect of strike or other labor dispute
(15)	Spouse and children of F-1 student
(16)	Reinstatement to student status
(17)	Current name and address
(18)	Special rules for certain border commuter students
(19)	Remittance of the fee

\* \* \* \* \*

*(h) Temporary employees.*

<b>Table 3 to Paragraph (h) – Paragraph Contents</b>
--

(1)	Admission of temporary employees
(2)	Petitions
(3)	Petition for registered nurse (H-1C)
(4)	Petition for alien to perform services in a specialty occupation, services relating to a DOD cooperative research and development project or coproduction project, or services of distinguished merit and ability in the field of fashion modeling (H-1B)
(5)	Petition for alien to perform agricultural labor or services of a temporary or seasonal nature (H-2A)
(6)	Petition for alien to perform temporary nonagricultural services or labor (H-2B)
(7)	Petition for alien trainee or participant in a special education exchange visitor program (H-3)
(8)	Numerical limits
(9)	Approval and validity of petition
(10)	Denial of petition
(11)	Revocation of approval of petition
(12)	Appeal of a denial or a revocation of a petition
(13)	Admission
(14)	Extension of visa petition validity
(15)	Extension of stay
(16)	Effect of approval of a permanent labor certification or filing of a preference petition on H classification
(17)	Effect of a strike
(18)	Use of approval notice, Form I-797
(19)	Additional fee for filing certain H-1B petitions
(20)	Retaliatory action claims
(21)	Change of employers during COVID-19 National Emergency (August 19, 2020 through December 17, 2020)
(22)	Change of employers during COVID-19 National Emergency (December 18, 2020 through June 16, 2021)
(23)	Change of employers and extensions beyond 3 years during COVID-19 National Emergency for H-2B aliens essential to the U.S. food supply chain



(24)	Severability
(25)	[Reserved]
(26)	Change of employers and portability for H-2B workers (May 25, 2021 through November 22, 2021)
(27)	Change of employers and portability for H-2B workers (January 28, 2022 through July 27, 2022)
(28)	Change of employers and portability for H-2B workers (July 28, 2022 through January 24, 2023)

\* \* \* \* \*

(21) *Change of employers during COVID-19 National Emergency (August 19, 2020 through December 17, 2020).* \* \* \*

(22) *Change of employers during COVID-19 National Emergency (December 18, 2020 through June 16, 2021).* \* \* \*

\* \* \* \* \*

(26) *Change of employers and portability for H-2B workers (May 25, 2021 through November 22, 2021).* \* \* \*

(27) *Change of employers and portability for H-2B workers (January 28, 2022 through July 27, 2022).* \* \* \*

(28) *Change of employers and portability for H-2B workers (July 28, 2022 through January 24, 2023).* \* \* \*

\* \* \* \* \*

(m) *Students in established vocational or other recognized nonacademic institutions, other than in language training programs.*

Table 4 to Paragraph (m) – Paragraph Contents	
(1)	Admission of student
(2)	Form I-20 ID copy
(3)	Admission of the spouse and minor children of an M-1 student
(4)	Temporary absence
(5)	Period of stay
(6)-(8)	[Reserved]
(9)	Full course of study
(10)	Extension of stay

(11)	School transfer
(12)	Change in educational objective
(13)	Employment
(14)	Practical training
(15)	Decision on application for extension, permission to transfer to another school, or permission to accept employment for practical training
(16)	Reinstatement to student status
(17)	Spouse and children of M-1 student
(18)	Current name and address
(19)	Special rules for certain border commuter students
(20)	Remittance of the fee

\* \* \* \* \*

(w) *CNMI-Only Transitional Worker (CW-1)*.

<b>Table 5 to Paragraph (w) – Paragraph Contents</b>	
(1)	Definitions
(2)	Eligible aliens
(3)	Derivative beneficiaries - CW-2 nonimmigrant classification
(4)	Eligible employers
(5)	Petition requirements
(6)	Appropriate documents
(7)	Change of employers
(8)	Amended or new petition
(9)	Multiple beneficiaries
(10)	Named beneficiaries
(11)	Early termination
(12)	Approval

(13)	Petition validity
(14)	Validity of the labor certification
(15)	How to apply for CW-1 or CW-2 status
(16)	Biometrics and other information
(17)	Period of admission
(18)	Extension of petition validity and extension of stay
(19)	Change or adjustment of status
(20)	Effect of filing an application for or approval of a permanent labor certification, preference petition, or filing of an application for adjustment of status on CW-1 or CW-2 classification
(21)	Rejection
(22)	Denial
(23)	Terms and conditions of CW Nonimmigrant status
(24)	Expiration of status
(25)	Waivers of inadmissibility for applicants lawfully present in the CNMI
(26)	Semiannual report
(27)	Revocation of approval of petition
(28)	Appeal of a revocation of a petition
(29)	Notice to DOL

\* \* \* \* \*

---

Alejandro N. Mayorkas,

Secretary, Department of Homeland Security

[FR Doc. 2022-22465 Filed: 10/14/2022 8:45 am; Publication Date: 10/17/2022]